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Social Legislation in the First Czechoslovak Republic²

Abstract

The article reviews theoretical bases of the social doctrine as well as the legitimacy of the state interference in resolving social inequalities among the population, with respect to the dynamics of the economic, political and social changes, and other factors. Subsequently, the paper maps, throughout a brief historical excursion, the development in the 19th century, when after the disappearance of feudal relations, the obsolete labor and social legislation regulating the position of an individual as well as the social classes, was changed. Social conflicts of a new quality began to emerge on the grounds of the development of the manufacturing sector. It was necessary to approach these conflicts with new instruments to be applied at economic, legal and social levels, respectively. Primarily, however, the article reflects the development after the formation of the First Czechoslovak Republic and the origins of the social legislation in the said period. Tomáš Garrigue Masaryk was the authority who outlined contours of the social doctrine in the First Czechoslovak Republic. The article further considers national and international sources as well as pertinent social legislation.

Key words: Czechoslovakia, interwar period, First Czechoslovak Republic, social policy, labour law, social legislation, manufacturing sector, Tomáš Garrigue Masaryk, the Great Depression, social insurance, social justice.

Słowa kluczowe: Czechosłowacja, dwudziestolecie międzywojenne, Pierwsza Republika Czechosłowacka, polityka społeczna, prawo pracy, ustawodawstwo społeczne, przemysł wytwórczy, Tomáš Garrigue Masaryk, wielki kryzys, ubezpieczenie społeczne, sprawiedliwość społeczna.

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1. Introductory remarks on social policy

When exploring the social legislation, the key term is “social policy”, which can be defined at two levels. The content of social policy can be, in broader context, the diverse scope of other policies, e.g. housing, health or education policy respectively. In general, any policy that has an indisputable influence on the condition of the society or on the relationships between the social groups is considered to be social policy. This is the way how social policy is approached in, e.g., the Anglo-Saxon countries. All of these policies are closely interrelated, interconnected and they are interdependent. As a result, it is illogical to artificially separate them. In our jurisdiction it is more common to define social policy in its narrower sense, in which it represents one of the public policies and primarily deals with the issue of who should take care or help people and how it should be taken or provided for those who have to face and cope with the consequences of social disadvantages or market failure, or failure of the family or society.

The goals of the social policy and the extent of state interference to balance social disparities in the society are closely connected with the term “justice”. In general, there are two approaches to social justice.³ These views differ on whether we understand justice in such a sense that the reward for an individual is to be proportional to his/her results, i.e. according to their individual merits, or whether we take into account the less capable individuals who deserve solidarity-based approach. It is therefore a conflict between market economy, which gives prominence to individual’s competencies, skills, and performance, and the paternalistic approach in which the state seeks to mitigate social disparities for all individuals and to ensure a dignified life for everyone in the society.⁴

Different perceptions of human dignity in the context of social status of an individual, or a particular group in the society, have accompanied the mankind throughout the whole history. The journey to a complete understanding of the importance of social cohesion has been very long and it is still being refined. Caring for the marginalized groups has evolved under the influence of religion associated with the teachings of love to one’s neighbor, mutual aid, and assistance.

With a slight oversimplification we can say that social policy has developed in two basic stages. These stages differ in that while in the first stage the state was not in the position of a “key player” regarding social policy, in the second stage it gradually assumed such role.

The origins of the second phase can be found in the 19th century. At that time the position of the state as being the guarantor of social security of the society significantly increased.

The first among the great reformers of the social policy in Europe was Otto von Bismarck. His main contribution lies in the fact that for the first time the state admitted responsibility for the social situation of the population. From 1882 to 1889 Bismarck created the first social insurance system which was based on the employee principle

³ E. Blaha, *Sociálna spravodlivosť a identita* [Social Justice and Identity], Bratislava 2006, p. 12.

⁴ V. Stanek, *Sociálna politika* [Social Policy], Bratislava 2002, p. 9.

and its costs were fairly and evenly distributed among the employees, employers and the state. Bismarck created a consistent system of acquisition, safeguarding, distribution and scrutiny of resources for funding social needs. Bismarck's social policy was *animo lucrandi*; he strived to take wind out of the German Social-Democratic Party's sails (in 1875 renamed to the Socialist Party of Germany and later on to the Social-Democratic Party of Germany).

This system of social security served as an inspiration for many other European jurisdictions and it influenced the development of social insurance and social security also on our territory.⁵

2. The development on our territory before the creation of the first Czechoslovak Republic

The dissolution of the feudal relations in the 19th century caused that a part of the population lost its social protection. Even though the social status was positively modified so that the population consisted of free persons only, these people could no longer rely on the traditional protection ensured by the relationship between the landlord and the bondsman. The role of "a guardian" had to be adopted by a new subject, which was increasingly becoming the state itself. The period of industrialization and urbanization had permanently changed the conditions in the family and social bonds among its members. These changes were reflected particularly in that:

1. The social structure of the family had been changed (individualism prevailed over the cohesion) and thereby it lost the ability to provide coverage of social risks.
2. The society began to get wealthier, and thus gained the ability to assume the control of a part of such risks.
3. New forms of social risks arose which the old system of the social relations could not satisfactorily cope with.
4. Different social groups were able to join forces to enforce their interests.⁶

Under the influence of these and many other factors arose the foundations of modern social policy in our territory. It was inevitable because of the rapid transformation of the society, nascent individualism and the unlimited freedom of contract, which did not provide the necessary protection of the weaker subjects of the newly created market.⁷ State gradually began to cover the most common risks, such as the loss of income in case of old age, illness, unemployment, poverty, or disability. However, the primary role in helping the marginalized groups still had to be shouldered by the family and community.

⁵ Z. Deyl, *Sociální vývoj Československa (1918–1938)* [Social Development of Czechoslovakia (1918–1938)], Praha 1985, p. 17.

⁶ For further details see also: <http://www.socialnapolitika.eu/index.php/1-uvod-do-socialnej-politiky/> (access: 31.01.2016).

⁷ L. Vojáček, K. Schelle, *Vývoj státu a práva v letech 1848–1918 (hlavní trendy)* [Development of State and Law during the years of 1848–1918 (determining trends)] [in:] *Stát a právo v letech 1848–1918 ve středoevropském kontextu*, [State and Law in the Central European Context 1848–1918], eds. L. Vojáček, K. Schelle, Bratislava–Brno 2007, p. 34.

Development of the industrial production had a great impact on the progressive measures adopted in the realm of social policy. Social legislation was a necessary product of the ever growing industry.⁸ This was related to the increasing concentration of the workforce in large factories, to the establishment workplace canteens, accommodation facilities for the workers, etc.⁹

This was typical of advanced industrial countries of the world in those times, to which Austria-Hungary was also included, and thereby the territory of Slovakia as well, albeit to a lesser extent because Slovakia was at that time mainly an agrarian country with the industry at an early stage and with poorly developed infrastructure.¹⁰

The most important socio-political measures comprise the enactment of health insurance in Hungary in 1891. As for the insurance against accidents, in Hungary, and therefore also in the territory of modern Slovakia, XIX Act of 1907 on insurance of industry and business employees against illness and accident was in effect. As for farm workers, insurance against accidents was regulated by Act XVI of 1900. These acts triggered certain improvements although by no means were all segments of the population provided for, neither were all normal risks covered, not even those which had been already covered by the Bismarck's laws. Old age insurance, however, was not implemented.¹¹

Slovakia as an integral part of Austria-Hungary did not have many opportunities to develop its own social policy. It existed only in the form of ecclesiastical and municipal charity-related activities manifested in the form of Christian mercy and compassion to the poor and socially disadvantaged or deprived. A notable contribution to the development of a theoretical elaboration of social issues was the work of a social reformist – Juraj Schulpe.¹² Juraj Schulpe was a nobleman of German-Hungarian origin, who lived in Bratislava. He studied at the Royal Law Academy in Bratislava which opened a law office for the “poor”. He studied various social conditions for a long time. He can be considered a major theorist of social doctrine who promoted the social reconciliation based on spiritual ideals, love and truth. Schulpe's program of social reforms was comprehensive and progressive. Although Schulpe did not cause any upheaval in the social situation in Slovakia, still, he managed to increase the national interest in the field of social policy, and his work is in many ways inspiring also today.

⁸ K. Marx, *Kapitál [Capital]*, Praha 1954, Vol. I, p. 94.

⁹ Z. Deyl, *Sociální vývoj Československa (1918–1938)* [*Social Development of Czechoslovakia (1918–1938)*], p. 17.

¹⁰ E. Hallon, *Príčiny, priebeh a dôsledky štrukturálnych zmien v hospodárstve medzivojnového Slovenska* [*Causes, Course and Impact of Structural Changes in the Economy of inter-war Slovakia*] [in:] M. Zemko, V. Bytrický, *Slovensko v Československu (1918–1939)* [*Slovakia in the Czechoslovakia (1918–1939)*], Bratislava 2004, p. 63.

¹¹ Z. Deyl, *Sociální vývoj Československa (1918–1938)* [*Social Development of Czechoslovakia (1918–1938)*], p. 18.

¹² G. Dudeková, *Juraj Schulpe. Vedec a humanista* [*Juraj Schulpe. Scientist and Humanist*], Bratislava 1994, p. 68.

3. An outline of social legislation in the first Czechoslovak Republic

3.1. Social legislation of the First Czechoslovak Republic – theoretical basis

The main figure who “contoured” social legislation in the First Czechoslovak Republic was **Tomáš Garrigue Masaryk**. Masaryk accentuated particularly the area of social security of the population, which resulted from the fact that by constituting a democratic state and by acquisition of political freedom the gaps in the adequate material security of the population were revealed.¹³ Masaryk promoted the concept, suggesting that the care of the weak should not be based solely on the good will of individuals, but that the state should be fully engaged in this matter. His views on social policy are formulated in a two-volume publication titled *Otázka sociální* [*The Social Question*]. Masaryk’s understanding of social question was based on democratic ideals and efforts to improve the societal conditions.¹⁴ In the conditions of constituting the Czechoslovak state, Masaryk’s accent on social policy found its expression in the famous Washington Declaration adopted on October 1918, where it is stated that: „The Czechoslovak nation will carry out far-reaching social and economic reforms”. Masaryk’s understanding of social policy as being a part of a comprehensive democratic and humanitarian ideal did not change after his election as president; actually it only gained a formal platform.

Social policy at theoretical level was reflected also by a prominent politician and economist, Professor **Karel Engliš**. He defined it as “practical efforts aimed at cultivating and transforming a social unit as close to the ideal as one can”.¹⁵ According to K. Engliš, the term ‘social unit’ is to be interpreted as meaning ‘inhabitants of a given state’. In line with such meaning of social policy, an ideal of a society should be equal to a healthy, educated, moral, and ethical person. Engliš expressed his critical opinion on social inequality which, in his view, must not exceed the necessity required for the advancement of civilization. Under the goals of social policy K. Engliš understood the following:¹⁶

1. The policy which is to ensure “the enhancement of the social unit”, i.e. the policy that will increase production, improve health conditions, and/or cultural development (this corresponds to the understanding of social policy in a narrower sense).
2. The policy which ensures that the output of the material and spiritual culture is distributed among different social layers of the population in the fairest way possible and as evenly as possible. It is therefore the policy of mitigating social disparities and also the policy that pays attention to the less wealthy part of the

¹³ P. Mosný et al., *Právnohistorická realita sociálnej doktríny 20. storočia* [*Legal-historical Reality of Social Doctrine in 20th Century*], Kraków 2013, 288 p.

¹⁴ L. Vojáček, *Social Doctrine of the First Czechoslovak Republic and its Reflection in Law* [in:] P. Mosný et al., *Právnohistorická realita sociálnej doktríny 20. storočia* [*Legal-historical reality of social doctrine in 20th Century*], Kraków 2013, p. 14.

¹⁵ K. Engliš, *Sociální politika* [*Social Policy*], Praha 1916, p. 6.

¹⁶ *Ibidem*.

population, to the weaker, oppressed, and to those who “have to shoulder a heavier burden of social work than the average, but who get less than the average share of the output of material and spiritual culture” (social policy in a broad sense).

Engliš's understanding of social policy was based on the assumptions similar to that of Masaryk, i.e., on the belief that the state should administer social policy; it should actively, i.e. through social legislation, eliminate social disparities in the society and raise the overall level of the society.

The concept of social policy, as promoted by a politician and economist **Josef Macek**, came to the fore in 1918 and effected social activities of the Czechoslovak government. The distinctive characteristics of his approach to social policy was that he did not perceive it as a separate part of the policy but rather as a method, a way, or an aspect that should penetrate the entire policy as such.¹⁷ Macek saw the optimal course of social policy not so much in the modification of the method for allocating labor output, but rather in the change in production. In his view the production should first be improved, multiplied, and also changed into technically advanced. Only then it would be purposeful to change the distribution of labor yields.¹⁸

3.2. Social legislation of the First Czechoslovak Republic in practice

Under the Act No. 2/1918 Coll. there were established the Ministry of Social Affairs, as well as other highest offices of the state. As of 1919, the ministry comprised the presidium and three departments. The first department administered youth care services, the second was entrusted with care services for people with disabilities, housing services and co-ops, whereas the third department was in charge of worker protection, employment services, business inspection, and social insurance. Social care, which was the primary agenda of the ministry, focused – above all – on the needy population groups, i.e. those who were either in pre-active age (pre-school and school age) or post-active age (senior citizens). At the same time, conditions for the protection of active-age workers and for mitigating the unemployment consequences were gradually provided for.

At the turn of the 20th century, achievement of a higher level of modernization can be observed also at the territory of Slovakia. The agrarian character of the country gradually began to be partially distorted¹⁹ and modern technologies, which replaced outdated mechanisms in different sectors, including transport or infrastructure, were introduced.²⁰

¹⁷ Z. Deyl, *Sociální vývoj Československa (1918–1938)* [*Social Development of Czechoslovakia (1918–1938)*], p. 26.

¹⁸ J. Macek, *Základy sociálnej politiky* [*Fundamental principles of the Social Policy*], Praha 1925, p. 13.

¹⁹ Nevertheless, Slovakia maintained its predominantly agrarian character for a long period. Actually, as early as in the 1930s the number of people employed in agriculture represented over 60%. This statistical data decreased below 50% only in the latter half of the 20th century. For further details see also: E. Mannová, *Podmienky vývoja meštianskych vrstiev na Slovensku v 20. Storočí* [*Developmental Conditions for the burgher's stratum in 20th Century*] [in:] E. Mannová, *Meštianstvo a občianska spoločnosť na Slovensku 1900–1989* [*Burghers and Civil Society in Slovakia 1900–1989*], Bratislava 1998, p. 9.

²⁰ G. Dudeková, *Juraj Schulpe a sociálna politika na prelome 19. A 20. Storočia. Dizertačná práca* [*Juraj Schulpe and Social Policy at the turn of 20th Century. Doctorate Thesis*], Bratislava 2001, p. 10.

Social policy in the 20th century implemented in our territory could be considered modern because it was a system of social policy in which the state had a decisive position of an organizer, guarantor, and principal source of funding primary social needs of the population. Under such system, the state should settle and compensate differing social conditions of individuals on the labor market.²¹ Even a universal political consensus was reached; it concerned the idea that the existing problems in social and economic issues should be addressed by relevant legal measures in a way that would have a stabilizing effect on the state's economy and, simultaneously, would improve material conditions of life for the broadest possible segments of the population.²²

One of the first social acts adopted by the interim National Assembly was the act on eight-hour working day. The initial long working day was only a somewhat less stringent form of slavery. Inferiority of the working class was manifested particularly in absolute insufficiency of free time.²³ Legal arrangement of the eight-hour working day²⁴ was unambiguously progressive; however, its implementation could not have been accomplished without an inflamed political debate.

Yet another important act pertaining to the field of social policy was the Act No. 63/1918 Coll. on support for the unemployed. Under the stipulations set out in this piece of law, the unemployed persons were entitled to unemployment benefits only if they actively sought job opportunities offered by local labor office which, in turn, accepted notices on vacant working posts from the employers.²⁵ Due to rampant unemployment, the system was not sustainable in the long term. Therefore, in 1921 a new concept, known as the Ghent System, was enforced.²⁶ Its name is derived from a Belgian city of Ghent where the system was first implemented. Under this system the care for the unemployed was executed through trade unions which were granted a subsidy from the state. Even though the Ghent system was adopted already in 1921, its legal effectiveness was continuously postponed due to many factors (such as lack of organizational readiness of the system, disputes related to its introduction); eventually it came into effect on 1st of April 1925. The essence of the scheme was to relieve the burden of a part of the expenses from the state which it had to spend to support the unemployed. Every employee paid regular member dues to the trade union, in line with its statutes; such contributions served as insurance.²⁷ This insurance, however, was based on a voluntary basis. The trade unions were then required to pay support for the unemployed from their own resources. The state also contributed to the final amount of the support for the unemployed albeit in a lesser amount than under the previous regulation. Thus, a part of the responsibility and also expenses on the care for the unemployed was transferred from the state to the trade unions. In order to be entitled to the support, the unemployed must have actively sought

²¹ M. Večera, *Sociální stát. Východiská a přístupy* [Social State. Fundamental Considerations and Approaches], Praha 1993, p. 53.

²² L. Vojáček, *Sociální doktrína první Československé republiky a její odraz v právu* [Social Doctrine of the First Czechoslovak Republic and its Reflection in Law] [in:] P. Mosný et al., *Právněhistorická realita sociální doktríny 20. století* [Legal-historical reality of social doctrine in 20th Century], Kraków 2013, p. 20.

²³ F. Peroutka, *Budování státu* [The Building of a State], Praha 1991, p. 264.

²⁴ Act No. 91/1918 Coll. On Eight-Hour Working Day.

²⁵ Act No. 63/1918 Coll. On the Support for Unemployed.

²⁶ Act No. 267/1921 Coll. On State Assistance to Unemployed Benefits.

²⁷ § 4 Act No. 267/1921 Coll. On State Assistance to Unemployed Benefits.

the work opportunities like under the previous legal regulation and reported at least three times a week at an agency responsible for employment services. Such arrangement, apparently, resulted in exclusion of non-organized unemployed from entitlement to financial support. At a time when the Great Depression affected the Czechoslovak Republic, the Ghent system gradually began to fail on the grounds of a soaring increase of the unemployed. The state attempted to at least partially mitigate the impacts of the crisis by various complementary measures, such as subsistence allowances or financial contribution to cover coal or clothing costs for the unemployed.

With a view to lower the number of children performing labor activity, the Act No. 420/1919 Coll. on child labor was approved. Exploitation of child labor was permitted, under provisions stipulated in Article 4 of the said act, on condition that it would not pose any threat to health, or physical, intellectual or moral development of the minors concerned and if it would not hinder compulsory school attendance.²⁸

In 1918 there was a large population of war victims in Czechoslovakia. Official records document around 210,000 war invalids and 380,000 war survivors. This led to the adoption of laws designed to provide care for war victims in 1919. Such laws were aimed to provide for not just direct financial support and physical recuperation (i.e. medical care), but also prospective re-inclusion of war victims into the economy even despite their disabilities.²⁹

A very important legal modification of health insurance was introduced in 1922 along with the Insurance Act of 1924 on employee insurance against sickness, disability and old age. In principle, any person who was employed under agreed upon employment relationship, civil service employment, or apprenticeship had to be insured. Insurance premiums were covered in the same proportion by the employee and the employer. Pursuant to this act, those who were over 60 years of age at the time when the act entered into force, as well as those who entered employment only after they had reached 60 years of age were excluded from entitlement.³⁰ The entitlement to old-age pension for men and women alike was established for those who had reached 65 years of age. This act can reasonably be regarded as one of the most significant reforms pertaining to social legislation in the inter-war period.

In 1925, Czechoslovakia was the first country in the world to introduce paid leave.³¹ However, occupational diseases were compensated for only as late as 1st of July 1932.

In the second half of the 1920s, the decline in the social legislation of the First Czechoslovak Republic is visible. To some extent this was due to the fact that most of the areas that urgently needed regulation was already secured by the existing legislation, which had been established in the early years of the existence of the republic. On the other hand, in this period – despite the evident stagnation in the regulation of the social policy – there was an indisputable growth in the overall life circumstances of broad seg-

²⁸ Act No. 420/1919 Coll. On Child Labor.

²⁹ A. Švecová, *Starostlivosť o sociálne slabé minority na Slovensku v období 1. ČSR* [Care for Socially Marginalized Minorities in Slovakia during the First Czechoslovak Republic] [in:] P. Mosný et al., *Právnohistorická realita sociálnej doktríny 20. storočia* [Legal-historical Reality of Social Doctrine in 20th Century], Kraków 2013, p. 188.

³⁰ Act No. 221/1924 Coll. On Employee Insurance Against Sickness, Disability and Old Age.

³¹ F. Peroutka, *Budování státu* [The Building of a State], Praha 1991, p. 267.

ments of the population. Social problems were mitigated in the conditions of a relative political and economic stability, compared to the initial years of the existence of the republic.

The Great Depression in the 1930s caused a national catastrophe in the Czechoslovak social policy. Immediately it caused a huge increase in unemployment, which neither the Ghent nor any other system of law could address effectively. During this period, it was not even possible to talk about the conceptual and purposeful social law. The objective of the social policy was to mitigate at least the harshest effects of the crisis (material assistance, attempt to modify the Ghent system, introduction of an execution moratorium, measures intended to prevent the shutdown of large corporations and the subsequent redundancies, etc.). The Czechoslovak social legislation gradually started to recover from the impacts of the crisis only as late as in the second half of the 1930s.

4. Conclusion

The key ideas underlying the creation of the First Czechoslovak Republic were democracy and social justice. In the period immediately following the end of the war, the concept of social justice was executed by a large number of laws which regulated social policy. Already in the first five years of the existence of the First Czechoslovak Republic more than a hundred new laws and regulations relating to the field of social policy were drafted. Through its social policy the Czechoslovak state was capable of contributing to the financing of the unemployed, to the care for the poor, to the war-affected population, and to the handicapped. Further, it also provided for the administration of sickness, accident and old-age insurance and, what is more, it covered part of these expenses. The laws also regulated the minimum wage and working hours, and impeded collective redundancies of employees. A typical feature of the social policy of the First Republic that was worthy of note was the interaction of the state and voluntary social care, because the state supported voluntary organizations that provided social services.

A wide network of organizations was established under the voluntary social care that provided support (financial or material), opened new centers and other facilities so as to provide necessary assistance to different groups of the population. These organizations were funded in part by state subsidies but to a large extent also by donations of various institutions and also by fundraising. The activities of these organizations were highly positive for the state, because the various activities of the state social policy were ensured at a relatively low cost.³²

While comparing poetic conceptions of social policy theoreticians at the time of the creation of the First Czechoslovak Republic with the practical implementation of social doctrine, we may see that the proclaimed ideas failed to be fully materialized. The most prosaic reasons for that include limited resources available to the state to be earmarked on the social policy development, as well as a never-ending struggle to curb rampant

³² Z. Deyl, *Sociální vývoj Československa (1918–1938)* [*Social Development of Czechoslovakia (1918–1938)*], p. 27.

unemployment. Nevertheless, it may well be stated that the social policy of the First Czechoslovak Republic, as provided by its rules and regulations, was comparable to that found in other advanced countries. The regress of social policy in the 1930s was an immediate aftermath of the economic crisis.

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